

Senate Bill No. 49

Passed the Senate September 11, 1997

Secretary of the Senate

Passed the Assembly September 8, 1997

Chief Clerk of the Assembly

This bill was received by the Governor this ____ day
of _____, 1997, at ____ o'clock __M.

Private Secretary of the Governor

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CHAPTER ____

An act to add Chapter 4.6 (commencing with Section 84600) to Title 9 of the Government Code, relating to the Political Reform Act of 1974, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 49, Karnette. Political Reform Act of 1974: online disclosure.

Existing provisions of the Political Reform Act of 1974 require specified candidates for public office and committees supporting or opposing candidates or ballot measures to periodically file reports with the Secretary of State and certain local officials setting forth information concerning contributions they received and expenditures they made during the specified reporting period. Existing provisions of the act also require lobbyists, lobbying firms, and lobbyist employers to periodically file specified reports and statements with the Secretary of State.

This bill would require the Secretary of State to develop a process whereby reports and statements that are required under the act to be filed with the Secretary of State could be filed electronically and viewed by the public at no cost and an online disclosure system by way of the largest nonproprietary, cooperative public computer network.

This bill would establish timeframes within which the Secretary of State would be required to implement this process and within which controlled committees of elected state officers that receive contributions, and any other committees, lobbyists, lobbying firms, and lobbyist employers that file these reports and statements, must begin to file them electronically. The bill would require that the Secretary of State implement its provisions statewide in connection with the state primary election in the year 2000.



This bill would permit committees that are not required to file electronically to do so.

This bill would require the Secretary of State to define a standardized record format or formats for transmission of data required to be filed by this bill, accept test files from vendors to ensure compliance and compatibility with these formats, and publish a list of the certified vendors to be made available to the public.

This bill would require that persons who are subject to these electronic filing requirements must continue to file paper copies of these reports and statements as currently required under the act until the Secretary of State is satisfied with the performance of the electronic filing system. The bill would require that all persons and committees required to file reports in connection with a statewide elective office or ballot measure appearing on the November 1998 ballot submit, in addition to a filing on paper, a computer disk in an approved format, unless they file electronically.

This bill would not require local officials who also receive filings of these reports and statements to maintain a similar electronic filing system, but would impose a state-mandated local program by requiring county elections officials to receive this information from the Secretary of State.

The bill would provide, pursuant to a specified provision of existing law, that no employee or official of a state or local government agency shall utilize, for political or campaign purposes, public facilities or resources to retrieve or maintain any of the data produced pursuant to the bill.

This bill would appropriate the sum of \$1,100,000 to the Secretary of State for the purposes of developing the electronic reporting system and reimbursing local agencies for any costs they incur in the development of the system.

Existing law makes a violation of the act subject to administrative, civil, and criminal penalties.

This bill would impose a state-mandated local program by imposing these penalties on certain persons who violate the provisions of the bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, except as provided in this act, no reimbursement is required by this act for specified reasons.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the act, would therefore require a $\frac{2}{3}$ vote.

The bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Chapter 4.6 (commencing with Section 84600) is added to Title 9 of the Government Code, to read:

CHAPTER 4.6. ONLINE DISCLOSURE ACT OF 1997

84600. This chapter may be known and may be cited as the Online Disclosure Act of 1997.

84601. The Legislature finds and declares as follows:

(a) The people of California enacted one of the nation's most comprehensive campaign and lobbying financial disclosure laws when they voted for Proposition 9, the Political Reform Act of 1974, an initiative statute.

(b) Public access to campaign and lobbying disclosure information is a vital and integral component of a fully informed electorate.

(c) Advances in technology have made it viable for disclosure statements and reports required by the



Political Reform Act to be filed online and placed on the Internet, thereby maximizing availability to the public.

84602. To implement the Legislature's intent, the Secretary of State, in consultation with the Fair Political Practices Commission, notwithstanding any other provision of this title or any other provision of the Government Code, shall do all of the following:

(a) Develop an online filing process for use by persons and entities specified in Sections 84604 and 84605 required to file statements and reports with the Secretary of State's office pursuant to Chapter 4 (commencing with Section 84100), and Chapter 6 (commencing with Section 86100). As part of that process, the Secretary of State shall define a nonproprietary standardized record format or formats using industry standards for the transmission of the data required of those persons and entities specified in subdivision (a), and which conforms with the disclosure requirements of this title. The Secretary of State shall hold public hearings prior to development of the record format as a means to ensure that affected entities have an opportunity to provide input into the development process. The format or formats shall be made public no later than September 1, 1999, to ensure sufficient time to comply with the requirements of this chapter.

(b) Accept test files, from software vendors and others wishing to file reports electronically, for the purpose of determining whether the file format is in compliance with the standardized record format developed pursuant to subdivision (a) and is compatible with the Secretary of State's system for receiving the data. A list of software and service providers who have submitted acceptable test files shall be published by the Secretary of State and made available to the public. Acceptably formatted files shall be submitted by a filer in order to meet the requirements of this chapter.

(c) Develop a system that provides for the online transfer of the data specified in this section utilizing telecommunications technology, which assures the



integrity of the data transmitted, and creates safeguards against efforts to tamper with or subvert the data.

(d) Make all the data filed online available on the largest, nonproprietary, nonprofit, cooperative public network of computer networks in an easily understood format that provides the greatest public access. The data shall be made available free of charge and as soon as possible after receipt. All late contribution and late independent expenditure reports, as defined by Sections 84203 and 84204, respectively, shall be made available online within 24 hours of receipt. The data made available shall not contain the street name and building number of the persons or entity representatives listed on the electronically filed forms.

(e) Develop a procedure for filers to comply with the requirement that they sign under penalty of perjury pursuant to Section 81004.

(f) Maintain all filed data online for 10 years after the date it is filed, and then archive the information in a secure format.

(g) Provide assistance to those seeking public access to the information.

(h) Consult with the Department of Information Technology and implement sufficient technology to seek to prevent unauthorized alteration or manipulation of the data. The online disclosure system shall not become operative until the Department of Information Technology approves the system.

(i) Provide the commission with necessary information to enable it to assist agencies, public officials, and others, with the compliance and administration of this title.

(j) Report to the Legislature on the implementation and development of the online filing and disclosure requirements of this chapter. The report shall include an examination of system security, private security issues, software availability, compliance costs to filers, and other issues, relating to this chapter, recommending appropriate changes if necessary. In preparing the report, the commission may present to the Secretary of



State and the Legislature its comments regarding this chapter as it relates to the duties of the commission and suggest appropriate changes if necessary. There shall be one report due before the system is operational as set forth in Section 84603, and one due no later than June 1, 2001.

84603. The Secretary of State, once all state-mandated development, procurement, and oversight requirements have been met, shall make public their availability to accept reports online. Any filer may then commence voluntarily filing online any required report or statement that is otherwise required to be filed with the Secretary of State pursuant to Chapter 4 (commencing with Section 84100) or Chapter 6 (commencing with 86100) of this title.

84604. (a) The Secretary of State shall implement an online disclosure program in connection with the 2000 state primary election and the lobbying activities specified in paragraph (4). Entities specified in paragraphs (1), (2), and (3) shall commence online disclosure with the first preelection statement for the period ending March 17, 2000, and shall continue to disclose online all required reports and statements up until and including the semiannual statement for the period ending June 30, 2000. Entities specified in paragraph (4) shall commence online disclosure with the quarterly report for the period ending March 31, 2000, and shall continue to disclose online all required reports and statements up to and including the quarterly report for the period ending June 30, 2000. The entities subject to this section are the following:

(1) Any candidate, committee, or other persons who are required, pursuant to Chapter 4 (commencing with Section 84100), to file statements, reports, or other documents in connection with a state elective office or state measure appearing on the June 2000 ballot, provided that the total cumulative reportable amount of contributions received, expenditures made, loans made or received is one hundred thousand dollars (\$100,000) or more.



(2) Any general purpose committees, as defined in Section 82027.5, including the general purpose committees of political parties, and small contributor committees, as defined in Section 85203, that cumulatively receive contributions or make expenditures totaling one hundred thousand dollars (\$100,000) or more to support or oppose candidates for any elective state office or state measure appearing on the June 2000 ballot.

(3) Any slate mailer organization with cumulative reportable payments received or made for the purposes of producing slate mailers of one hundred thousand dollars (\$100,000) or more in connection with the June 2000 election.

(4) Any lobbyist, lobbying firm, lobbyist employer or other persons required, pursuant to Chapter 6 (commencing with Section 86100) to file statements, reports, or other documents provided that the total amount of any category of reportable payments, expenses, contributions, gifts, or other items is one hundred thousand dollars (\$100,000) or more in a calendar quarter.

(b) Filers specified in subdivision (a) shall also continue to file required disclosure forms in paper format. The paper copy shall continue to be the official version for audit and other legal purposes. Committees and other persons that are not required to file online by this section may voluntarily file online.

(c) The Secretary of State shall also disclose online any late contribution or late independent expenditure report, as defined by Sections 84203 and 84204 respectively, not covered by subdivision (a).

(d) It shall be presumed that online filers file under penalty of perjury.

84605. Beginning on July 1, 2000, and for all applicable reporting periods thereafter, the following persons shall file online with the Secretary of State:

(a) Any candidate, committee, or other persons who are required, pursuant to Chapter 4 (commencing with Section 84100), to file statements, reports, or other documents in connection with a state elective office or

state measure, provided that the total cumulative reportable amount of contributions received, expenditures made, loans made or received is fifty thousand dollars (\$50,000) or more in an election cycle. In determining the cumulative reportable amount, all controlled committees, as defined by Section 82016, and office holder accounts, as defined by Section 85313, shall be included.

(b) Any general purpose committees, as defined in Section 82027.5, including the general purpose committees of political parties, and small contributor committees, as defined in Section 85203, that cumulatively receive contributions or make expenditures totaling fifty thousand dollars (\$50,000) or more in an election cycle to support or oppose candidates for any elective state office or state measure.

(c) Any slate mailer organization with cumulative reportable payments received or made for the purposes of producing slate mailers of fifty thousand dollars (\$50,000) or more in an election cycle.

(d) Any lobbyist, lobbying firm, lobbyist employer or other persons required, pursuant to Chapter 6 (commencing with Section 86100), to file statements, reports, or other documents provided that the total amount of any category of reportable payments, expenses, contributions, gifts, or other items is five thousand dollars (\$5,000) or more in a calendar quarter.

(e) The Secretary of State shall also disclose online any late contribution or late independent expenditure report, as defined by Sections 84203 and 84204 respectively, not covered by subdivision (a), (b), or (c).

(f) Committees and other persons that are not required to file online by this section may voluntarily file online.

(g) Once a person or entity is required to file online, subject to subdivision (a), (b), (c), or (d), they shall be required to file all subsequent reports online.

(h) It shall be presumed that online filers file under penalty of perjury.



(i) Persons filing electronically shall also continue to file required disclosure statements and reports in paper format. The paper copy shall continue to be the official filing for audit and other legal purposes until such time that the Secretary of State, pursuant to Section 84606, determines the system is operating securely and effectively.

(j) The Secretary of State shall maintain at all times a secured, official version of all original electronically filed statements and reports required by this chapter. Upon determination by the Secretary of State, pursuant to Section 84606, that the system is operating securely and effectively, this electronic version shall be the official version for audit and other legal purposes.

84606. The Secretary of State shall determine and publicly disclose when the online disclosure system is operating effectively. In making this determination, the Secretary of State shall consult with the commission, the Department of Information Technology, and any other appropriate public or private entity. Upon this determination, filers required by this chapter to file online will no longer be required to file a paper format or with local filing officers. Furthermore, the date that a filer transmits an online report shall be the date the filed report is received by the Secretary of State.

84607. Pursuant to Section 8314, no employee or official of a state or local government agency shall utilize, for political or campaign purposes, public facilities or resources to retrieve or maintain any of the data produced by the requirements of this chapter.

84609. All candidates and ballot measure committees who are required, pursuant to Chapter 4 (commencing with Section 84100), to file statements, reports, or other documents in connection with a statewide elective office or state measure appearing on the November 1998 ballot shall provide at the time of filing, in addition to a paper submission, a copy of the required report on computer disk in either an ASCII or PDF format with documentation detailing the field layout or file structure. Filers who submit computer disks which are not readable,



cannot be copied, or do not have documentation have not complied with the requirements of this section. Candidate and ballot measure committees who make their report available on the Internet through the Secretary of State's office are not required to file the report on computer disk. The Secretary of State shall make copies available to the public, upon payment of fees covering direct costs of duplication, or a statutory fee, if applicable. The Secretary of State shall also disclose online, any late contribution or late independent expenditure report, as defined by Sections 84203 and 84204 respectively, filed in connection with any elective state office or ballot measure appearing on the November 1998 ballot.

84610. There is hereby appropriated from the General Fund of the state to the Secretary of State the sum of one million one hundred thousand dollars (\$1,100,000) for the purposes of developing the online disclosure system provided by this chapter and reimbursing local agencies for any costs they incur in the development of this system.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Except for the costs to be reimbursed pursuant to the appropriation set forth in Section 1, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, within the meaning of Section 17556 of the Government Code.



Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 3. The Legislature finds and declares that the provisions of this act further the purpose of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the Secretary of State to have sufficient time to provide for an online disclosure and electronic filing system, it is necessary that this act take effect immediately.



Approved _____, 1997

Governor

